Barclay Cases. F

NOTES FOR THE FILE November 20, 1980

Re: Barclay Cigarettes

Ernie Pepples called me this morning to respond to the presentation which I made to him on Friday, November 7, 1980.

Pepples stated that they totally rejected Philip Morris' assertions, and particulary our claim that the Barclay filter system differed "in kind" from other cigarette filter systems presently on the market. Pepples further asserted that Brown & Williamson was skeptical of the readings Philip Morris had obtained in testing the Barclay filter, as well as the scientific foundations for the types of tests which Philip Morris performed.

To the contrary, Pepples asserted that the nicotine deposition tests, which Brown & Williamson had performed at his request after my first call in September, were regarded by B&W as more dispositive than any of the work performed by Philip Morris.

Jim Morgan had previously advised me of a rumor emanating from Lorillard sales people in Cincinnati to the effect that Lorillard had brought an action against B&W with respect to the Barclay filter. I asked Pepples whether or not it was true that another company had brought an action against them in that connection, and Pepples said unequivocally that it was not true.

Pepples said that B&W had some "crazy scientists too", and that there were other products on the market which could be subjected to legal or scientific criticism. Pepples said he was beginning to hear the sound of "Drums Along The Mohawk".

Pepples said he understood there was at least a rumor that Philip Morris salesmen were advising smokers that the Barclay filter was fraudulent, and also a rumor to the effect that a Philip Morris Louisville employee, after a few drinks on a plane, had stated that Philip Morris was testing the Barclay product with a view toward showing it to be deceptive in its operation.

Pepples told me that he had consulted Marty London in connection with this problem, and that I was free to call London. I told Pepples that I felt we had exhausted all available informal remedies.

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Subsequently, Alex Holtzman talked to Mike Gastman at Lorillard as to the rumor that Lorillard had brought a suit against B&W. Lorillard denied that they had brought a suit, said they had heard that Philip Morris was going to bring a suit, and hoped that Philip Morris would not so as to prevent opening up whether the FTC method, in fact is representative of human smoking.

TFA/add

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